

## REMARKS

The applicant notes with satisfaction that the Examiner upon further consideration has decided to rejoin Group I.

### Objections of the specification

The Examiner objected the specification for various informalities. The applicant has amended the Specification to overcome the objections. The amendments do not contain any new matter.

### Claim rejections under 35 U.S.C. 112 second paragraph:

The Examiner rejected claims 2-6, 9-12, 21-36 and 41-42 under 35 U.S.C. 112 second paragraph.

More specifically:

Claims 2-3 and 9-12 are rejected as being indefinite in their recitation of the “the RC” which lacks antecedent basis. **The applicant has amended claim 1**, as suggested by the Examiner by inserting the word “(RC)” after the word “construct”, to obviate this rejection.

Claims 4 and 24 are rejected as being indefinite in their recitation of “wherein the BC is barnase and the RC is barstar”. **The applicant has canceled claims 4 and 24.**

Claims 5 and 6 are rejected as being indefinite in their recitation of “nucleotide sequence SEQ ID NO:1 (or 2)”. **The applicant has amended claims 5 and 6** according to the suggestion of the Examiner by inserting the word “comprising” after the word “sequence” in line 2 of each claim to obviate this rejection.

Claim 21 is indefinite in its recitation of “the transgenic plant”, which lack antecedent basis. **The applicant has amended claim 21** according to the suggestion of the Examiner by replacing on line 4 the word “the” with the word “a” and on line 5 inserting the words “containing said BC” after the word “plant”, to obviate this rejection.

Claims 25 and 26 are indefinite in their recitation of “barnase (or barstar) comprises the SEQ ID NO:1 (or 2)”. **The applicant has amended both of these claims** according to the suggestion of the Examiner by replacing the words “comprises the” with words “is encoded by a nucleotide sequence comprising” on line 2 of the claims to obviate this rejection.

Claim rejections under 35 U.S.C. 112 first paragraph:

Claims 1-3, 7-16, 21-23, 27-36 and 41-42 are rejected under 35 U.S.C. 112 first paragraph, as failing to comply with the written description requirement. The Examiner states that the claims are broadly drawn to nucleic acid molecules comprising any blocking construct and recovering construct of any sequence and from any gene, encoding any product of any sequence, including RNA or protein; said blocking and recovering constructs being inserted into any intron of any sequence, and plant cells and plants transformed therewith. The Examiner states the specification only teaches blocking constructs which comprise a barnase protein-encoding region and recovering constructs comprising a barstar protein –encoding region.

**The applicant has amended independent claims 1 and 21**, so as to limit the blocking construct to barnase coding sequence and the recovery construct to barstar coding sequence. The applicant believes that claims 1 and 21 as now amended comply with the written description requirement. Claims 2-3, 7-8, and 15-16 are dependent on claim 1 and thereby also include the amended limitation. **Applicant has canceled claims 9-14.** Claims 22-23, 27-28, 35-36, and 41-42 are dependent on claim 21 and thereby also include the amended limitation. **Claims 29-34 are canceled.**

Claims 1-16, 21-36 and 41-42 are rejected under 35 U.S.C. 112, first paragraph. The Examiner states that, while the specification enables claims limited to a system comprising a blocking construct comprising a barnase coding sequence operably linked to an embryo- or germination –specific promoter, said blocking construct fully inserted within and intron of a transgene of interest; and a recovering construct comprising a barstar coding sequence operably linked to a physically inducible promoter; and plant cells and plants transformed therewith, the specification does not reasonably provide enablement for claims broadly drawn to any blocking or recovering construct of any sequence encoding any product of any sequence, any blocking construct under the control of a constitutive promoter or other non-exemplified promoter type, any blocking construct which is only partially inserted into an intron of a transgene of interest, a recovery construct with any type of means for its expression control, and plant cells and plants transformed therewith.

More specifically the rejections stand as:

- Claims 1-3, 7-16, 21-23, 27-36 and 41-42 are broadly drawn to nucleic acid molecules comprising any blocking construct and recovering construct of any sequence from any gene, encoding any product of any sequence, including RNA or protein; said blocking and recovering construct being inserted to any intron of any sequence; and plant cells and plants transformed therewith.

**The applicant has amended independent claims 1 and 21 so as to limit the blocking construct to barnase encoding sequence and the recovery construct to barstar encoding sequence.** The applicant believes that the current amendment of the independent claims obviates this rejection. Claims 2-3, 7-8, and 15-16 are dependent on claim 1 and thereby also include the amended limitation. **Applicant has canceled claims 9-14.** Claims 22-23, 27-28, 35-36, and 41-42 are dependent on claim 21 and thereby also include the amended limitation. **Claims 29-34 are canceled.**

- Claims 1-3, 7-12, 16, 21-23, 27-32, 36, and 41-42 are broadly drawn to blocking constructs with any type of promoter including constitutive promoters or promoters expressed in a variety of above-ground or below-ground plant parts at a variety of developmental stages.

**The applicant has amended independent claims 1 and 21 so that the blocking construct is limited to be operably linked to an embryo/germination specific promoter.** The applicant believes that the current amendment of the independent claims obviates this rejection. Claims 2-3, 7-8, and 16 are dependent on claim 1 and thereby also include the amended limitation. **Applicant has canceled claims 9-12.** Claims 22-23, 27-28, 36, and 41-42 are dependent on claim 21 and thereby also include the amended limitation. **Claims 29-32 are canceled.**

- Claims 1-3, 7-8, 13-16, 21-23, 27-28, 33-36 and 41-42 are drawn to any means for controlling the expression of the recovery construct, including topical chemical application.

**The applicant has amended independent claims 1 and 21 so that the recovery construct is limited to be operably linked to a heat inducible promoter.** The applicant believes that the current amendment of the independent claims obviates this rejection. Claims 2-3, 7-8, and 15-16 are dependent on claim 1 and thereby also include the amended limitation. **Applicant has canceled claims, and 13-14.** Claims 22-23, 27-28, 35-36, and 41-42 are dependent on claim 21 and thereby also include the amended limitation. **Claims 33-34 are canceled.**

- Claims 1-16, 21-26 and 41-42 are broadly drawn to blocking constructs which are inserted either partially or fully into an intron of a transgene of interest.

**The applicant has amended independent claims 1 and 21 so as to remove the option of inserting the blocking construct partially into an intron.** The applicant believes that

the current amendment of the independent claims obviates this rejection. Claims 2-3, 5-8, and 15-16 are dependent on claim 1 and thereby also include the amended limitation.

**Applicant has canceled claims 4, and 9-14.** Claims 22-23, 25-26, and 41-42 are dependent on claim 21 and thereby also include the amended limitation. **Claim 24 is canceled.**

CONCLUSION

The Applicant has responded to each of the rejections made in the office action and amended the claims to obviate the rejections. The amended claims do not contain any new matter. The Applicant respectfully requests the Examiner to reconsider allowance of the amended claims as presented in the claim listing.

Respectfully submitted by:

DODDS AND ASSOCIATES

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cc. file  
Ms. Gunnel Lonnqvist